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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,144	07/14/2006	Donald H. Eason	USS-MDS20-PCT3-USNP	4166
33549 7590 10/24/2008 SANTANGELO LAW OFFICES, P.C. 125 SOUTH HOWES, THIRD FLOOR FORT COLLINS, CO 80521			EXAMINER UHLIR, CHRISTOPHER J	
			ART UNIT 2837	PAPER NUMBER
			NOTIFICATION DATE 10/24/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/586,144	<b>Applicant(s)</b> EASON ET AL.	
	<b>Examiner</b> CHRISTOPHER UHLIR	<b>Art Unit</b> 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/14/2006 and 10/31/2006</u> .                               | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

Receipt is acknowledged of applicants' preliminary amendment filed July 14, 2006. Claims 25-48 have been canceled without prejudice. Claims 1-24 are pending and an action on the merits is as follows.

### *Claim Objections*

1. Claims 1, 3, 13, 16, and 18 are objected to under C.F.R. 37 § 1.75 (a).

The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 1** includes the limitation that an item support rail is rotatable "about a substantially vertical axis". It is unclear to what degree of alignment applicants intend as a "substantially vertical axis".

**Claims 3, 13, 16, and 18** include the limitation that a rail or cable port is adapted so that a "cable may pass". The term 'may' renders these claims indefinite because it does not require that a cable must pass through said rail or cable port. Therefore a support apparatus in which a cable passes through a rail or cable port, and likewise a support apparatus in which a cable does not pass through a rail or cable port then would properly read on applicants' claimed limitation.

**Claim 13** further includes the limitation that couples enable "substantially purely vertical" height adjustment. It is unclear to which degree of alignment applicants intend as "substantially purely vertical".

These limitations do not properly describe the metes and bounds of applicants' invention. Appropriate correction is required.

2. Claims 8, 12, 21, and 24 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form. These claims recite only specific function of previous limitations and lacks structure. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP § 2106 II.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Torrez (US 6,610,916 B1).

**Regarding claim 1**, Torrez discloses a support apparatus shown in Figs. 1a and 2 to have two item support rails (right horizontal longitudinal bar 130 and main horizontal longitudinal bar 110), each supported by two rail support legs (left front

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vertical leg 150, right front vertical leg 160, and right rear vertical leg 180). Each support leg 150, 160, 180 is coupled to respective item support rails 130, 110 by a coupler (pivot fitting 220, 230) (column 3 lines 58-64 and line 66 through column 4 line 2). Fig. 1a further shows each of said rail support legs 150, 160, 180 to have a lower end adapted to rest on a lower supporting surface (floor) as is typical in the art. A coupler 220 is disclosed to be a pivot coupler which pivotally couples an item support rail 130 to a rail support leg 160 about a vertical axis as can be seen from Figs. 2-4 (column 3 lines 58-64). A cable 102 is further disclosed to pass through at least a portion of an item support rail 110 through open end 101 (column 3 lines 29-31).

**In reference to claim 2**, Torrez discloses a support apparatus having three rail support legs 150, 160, 180 as stated above.

**In reference to claim 3**, Torrez discloses a support apparatus as stated above, where the pivot coupler has a cable port (open end 101) so as to properly pass a cable 102 to the item support rail 110 as stated above (column 3 lines 29-31).

**In reference to claim 11**, Torrez discloses a support apparatus as stated above, where said support apparatus is collapsible (column 2 lines 5-6).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being obvious over Torrez (US 6,610,916 B1).

**In reference to claim 4**, Torrez discloses a support apparatus as stated above, shown in Fig. 1b to have a cable end connector 104 attached to the cable 102. Said cable end connector 104 is further shown in Fig. 1a to appear larger than the cable port diameter required to pass cable 102. This reference fails to explicitly disclose that the cable port has a diameter less than the diameter of the cable end connector.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide the cable port to have a diameter less than the diameter of the cable end connector, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a cable end connector that can be easily connected and disconnected to a mating cable end connector due to its large size.

**In reference to claim 5**, Torrez discloses a support apparatus having a cable port as stated above, further shown in Fig. 1a to have multiple microphones attached to each item support rail. This reference fails to explicitly disclose the pivot coupler to have at least a first and second cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least a first and second cable port, since it has been held that a mere duplication of the essential working parts of a device involves

only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

**In reference to claims 6 and 7**, Torrez discloses a support apparatus as stated above, but fails to explicitly disclose the first cable port to be an upper cable port, and the second cable port to be a lower cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first cable port to be an upper cable port, and the second cable port to be a lower cable port, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

**In reference to claim 8**, Torrez discloses a support apparatus as stated above, shown in Fig. 1a to have one cable 102 directed through said cable port 101.

**In reference to claim 9**, Torrez discloses a support apparatus as stated above, where said cable 102 is shown in Fig. 1a to pass from an external space to an internal portion of an item support rail 110 (column 3 lines 29-31). This reference fails to explicitly disclose the cable to pass an external surface of a rail support leg.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cable to pass an external surface of a rail support leg, since it has been held that rearranging parts of an invention involves only routine

skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a reliable method of securing the cable in order to prevent a person from tripping over the cable.

7. Claims 10, 12-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torrez (US 6,610,916 B1) in view of Adinolfi (US 5,929,355).

**In reference to claim 10**, Torrez discloses a support apparatus as stated above, but fails to explicitly disclose at least one item support rail to be non-horizontal.

However Adinolfi teaches a support apparatus having an item support rail (horizontal cross support 13) which is vertically adjustable through clamps 16, 18 (column 2 lines 43-46).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez with providing at least one item support rail which is vertically adjustable as taught by Adinolfi. It has been held that the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954). Doing so would provide a support apparatus that can be easily and comfortably used by musicians of different sizes. These references fail to explicitly disclose at least one item support rail to be non-horizontal.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one item support rail to be non-horizontal, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a support apparatus that can be easily and comfortably used simultaneously by musicians of different sizes.



**In reference to claim 12**, Torrez discloses a support apparatus as stated above, but fails to explicitly disclose a coupler to allow for cable slack.

However Adinolfi teaches a support apparatus where a cable is shown in FIG. 1 to have slack to allow structure adjustments to said support apparatus (column 1 lines 63-66).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez with providing a coupler to allow for cable slack as taught by Adinolfi, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide mounted cables within the support apparatus while allowing “adjustments of the integrated rack system” as taught by Adinolfi (column 1 lines 64-66).

**In reference to claim 13**, Torrez discloses a support apparatus shown in Figs. 1a and 2 to have two item support rails (right horizontal longitudinal bar 130 and main horizontal longitudinal bar 110), each supported by two rail support legs (left front vertical leg 150, right front vertical leg 160, and right rear vertical leg 180). Each support leg 150, 160, 180 is coupled to respective item support rails 130, 110 by a coupler (pivot fitting 220, 230) (column 3 lines 58-64 and line 66 through column 4 line 2). Fig. 1a further shows each of said rail support legs 150, 160, 180 to have a lower end adapted to rest on a lower supporting surface (floor) as is typical in the art. A cable 102 is further disclosed to pass through at least a portion of an item support rail 110

through open end 101 (column 3 lines 29-31). This reference fails to explicitly disclose at least two of the couples to be height adjust couplers that enable vertical height adjustment of an item support rail.

However Adinolfi teaches a support apparatus shown in FIG. 1 to have an item support rail (horizontal cross support 13) which is vertically adjustable through height adjust couplers (clamps 16, 18) (column 2 lines 43-46).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez with providing at least two of the couples to be height adjust couplers that enable vertical height adjustment of an item support rail as taught by Adinolfi. It has been held that the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954). Doing so would provide a support apparatus that can be easily and comfortably used by musicians of different sizes.

**In reference to claim 14**, Torrez modified by Adinolfi discloses a support apparatus having three rail support legs 150, 160, 180 as stated above.

**In reference to claim 15**, Torrez modified by Adinolfi discloses a support apparatus as stated above, where said cable 102 is shown in Fig. 1a of Torrez to pass from an external space to an internal portion of an item support rail 110 (column 3 lines 29-31). These references fail to explicitly disclose the cable to pass an external surface of a rail support leg.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cable to pass an external surface of a rail support leg, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a reliable method of securing the cable in order to prevent a person from tripping over the cable.

**In reference to claim 16**, Torrez modified by Adinolfi discloses a support apparatus as stated above, where a pivot coupler is further disclosed in Torrez to have a cable port (open end 101) so as to properly pass a cable 102 to the item support rail 110 as stated above (column 3 lines 29-31).

**In reference to claim 17**, Torrez modified by Adinolfi discloses a support apparatus having a cable port as stated above, shown in Fig. 1b of Torrez to have a cable end connector 104 attached to the cable 102. Said cable end connector 104 is further shown in Fig. 1a to appear larger than the cable port diameter required to pass cable 102. These references fail to explicitly disclose that the cable port has a diameter less than the diameter of the cable end connector.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide the cable port to have a diameter less than the diameter of the cable end connector, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a cable end connector

that can be easily connected and disconnected to a mating cable end connector due to its large size.

**In reference to claim 18**, Torrez modified by Adinolfi discloses a support apparatus having a cable port as stated above, further shown in Fig. 1a of Torrez to have multiple microphones attached to each item support rail. These references fail to explicitly disclose the couplers to have a first and second cable port for additional cables to pass.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a first and second cable port for additional cables to pass, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

**In reference to claims 19 and 20**, Torrez modified by Adinolfi discloses a support apparatus as stated above, but fails to explicitly disclose the first cable port to be an upper cable port, and the second cable port to be a lower cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first cable port to be an upper cable port, and the second cable port to be a lower cable port, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

**In reference to claim 21**, Torrez modified by Adinolfi discloses a support apparatus having a first and second cable port for cables to pass as stated above, further shown in Fig. 1a of Torrez to have one cable 102 directed through a single cable port 101.

**In reference to claim 22**, Torrez modified by Adinolfi discloses a support apparatus having a vertically adjustable item support rail as stated above. These references fail to explicitly disclose at least one item support rail to be non-horizontal.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one item support rail to be non-horizontal, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a support apparatus that can be easily and comfortably used simultaneously by musicians of different sizes.

**In reference to claim 23**, Torrez modified by Adinolfi discloses a support apparatus as stated above, where said support apparatus is collapsible (column 2 lines 5-6).

**In reference to claim 24**, Torrez modified by Adinolfi discloses a support apparatus as stated above, shown in FIG. 1 of Adinolfi to have slack to allow structure adjustments to said support apparatus (column 1 lines 63-66).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER UHLIR whose telephone number is

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(571)270-3091. The examiner can normally be reached on Monday-Thursday 8:00am-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 571-272-2227.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER UHLIR/  
Examiner, Art Unit 2837  
October 17, 2008

/Jeffrey Donels/

Primary Examiner, Art Unit 2837